

Message Text

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TO AMEMBASSY TEL AVIV
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C O N F I D E N T I A L STATE 123047

E.O. 11652: GDS

TAGS: SHUM, IS

SUBJECT: HUMAN RIGHTS REPORT

REF: TEL AVIV 1594

1. REFTEL PRESENTED MFA'S REBUTTAL OF SEVERAL ASSERTIONS
CONTAINED IN DEPARTMENT'S HUMAN RIGHTS REPORT ON ISRAEL.
DEPARTMENT FEELS IT IS IMPORTANT THAT DISCREPANCIES BETWEEN
US AND ISRAELI POSITIONS ON THESE ISSUES BE RESOLVED TO THE
EXTENT THAT FACTS CAN BE ASCERTAINED. WE DO NOT WISH TO
ENTER INTO A RUNNING DEBATE WITH ISRAEL ON THIS ISSUE BUT
FEEL THAT INQUIRIES FROM CONGRESS AND PUBLIC, SOME OF WHICH
HAVE ALREADY BEEN RECEIVED, REQUIRE US TO BE ON AS FIRM
GROUND AS POSSIBLE IN THIS SENSITIVE AREA.

2. EMBASSY IS THEREFORE REQUESTED TO APPROACH MFA OFFI-
CIALS RESPONSIBLE FOR ORIGINAL ISRAELI RESPONSE (REFTEL)
TO REQUEST FURTHER DOCUMENTATION IN SUPPORT OF ISRAELI
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RESPONSES TO FOLLOWING QUESTIONS RELATING TO OCCUPIED
TERRITORIES.

A. ADMINISTRATIVE DETENTION. HR REPORT (SECTION 2, II-
LEGAL SITUATION) STATED THAT "THE AUTHORITIES CAN HAVE

PERSONS DETAINED ON SECURITY GROUNDS UP TO SIX MONTHS

WITHOUT FILING CHARGES AGAINST THEM OR BRINGING THEM TO TRIAL." MFA RESPONDED THAT "ANY ADMINISTRATIVE DETAINEE CAN SEEK A WRIT OF HABEAS CORPUS FROM THE SUPREME COURT IN ISRAEL, AND ALL SUCH DETAINEES HAVE THE RIGHT TO REQUEST REVIEW OF THEIR CASES BY A PERMANENT COMMITTEE AND TO BE REPRESENTED BY LEGAL COUNSEL OF THEIR CHOICE DURING SUCH REVIEW." DEPARTMENT IS UNAWARE OF ANY INSTANCES IN WHICH DETAINEES HAVE TAKEN ADVANTAGE OF THE RIGHT OF HABEAS CORPUS OR REVIEW BY SUCH A PERMANENT COMMITTEE. EMBASSY SHOULD SEEK TO OBTAIN SPECIFIC EXAMPLES OF CASES IN WHICH SUCH RIGHTS WERE EXERCISED, THE RELATIVE FREQUENCY WITH WHICH SUCH RIGHTS ARE EXERCISED, AND THE DEGREE OF SUCCESS OF SUCH APPEALS. WOULD ALSO APPRECIATE KNOWING DETAILS ABOUT MAKE-UP AND FUNCTION OF "PERMANENT COMMITTEE" AND WHETHER THIS COMMITTEE IN FACT REVIEWS FILES OF ADMINISTRATIVE DETAINEES EVERY SIX MONTHS.

B. INTEGRITY OF THE PERSON (SEC. 2, III, A, ARTICLE 8).

HR REPORT STATES "RESIDENTS OF THE TERRITORIES CAN APPEAL TO THE MILITARY AUTHORITIES FOR REDRESS OF THEIR COMPLAINTS, BUT THERE IS NO JUDICIAL REMEDY AVAILABLE TO ADMINISTRATIVE DETAINEES IN THE TERRITORIES IF THEIR RIGHTS ARE VIOLATED." THE MFA RESPONSE STATED, "RESIDENTS OF THE TERRITORIES DO HAVE THE RIGHT TO SEEK WRITS FROM THE ISRAELI SUPREME COURT AGAINST THE MILITARY AUTHORITIES, AND THEY CAN SUE IN ISRAELI COURTS FOR REDRESS." WE KNOW OF NO CASE WHERE SUPREME COURT HAS INTERVENED AGAINST MILITARY AUTHORITIES IN THE OCCUPIED TERRITORIES. WE ARE PREPARED TO MODIFY REPORT, HOWEVER, IF EMBASSY OR GOI CAN PROVIDE EXAMPLES OF CONFIDENTIAL

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SUCH INTERVENTION AND INFORMATION ABOUT ITS OUTCOME.

C. SUMMARY PROCEEDINGS. (SAME SECTION, ARTICLE 10) H.R.

REPORT STATES, "THERE APPEAR TO HAVE BEEN INSTANCES OF SUMMARY PROCEEDINGS HELD WITHOUT HEARINGS BY IMPORTANT TRIBUNALS AGAINST SUSPECTED TERRORISTS AND ANTI-ISRAELI POLITICAL ACTIVISTS." MFA FLATLY DENIED THIS STATEMENT. DOES EMBASSY KNOW OF INSTANCES IN WHICH SUCH SUMMARY PROCEEDINGS HAVE IN FACT OCCURRED?

3. FYI. MFA'S ASSERTION THAT IT APPLIES ALL THE PROVISIONS OF THE FOURTH GENEVA CONVENTION TO THE OCCUPIED TERRITORIES IS NOT CORRECT. ISRAEL HAS OPENLY VIOLATED TWO OF THE CONVENTION'S MOST IMPORTANT SECTIONS, THOSE PROHIBITING EXPULSION OF THE INDIGENOUS POPULATION AND INTRODUCTION OF ITS OWN CITIZENS AS SETTLERS IN THE OCCUPIED TERRITORIES.

4. MFA'S STATEMENT THAT 60-80,000 PALESTINIANS RETURNED TO ISRAEL AFTER HAVING FLED IN 1948 STRIKES US AS RATHER

HIGH. WE ARE SEEKING THROUGH UN AND OTHER SOURCES TO
CHECK THIS FIGURE OUT. EMBASSY NEED NOT RAISE THIS ISSUE
WITH MFA. END FYI.

5. ANSWERS TO ABOVE QUESTIONS NEEDED IN CONNECTION WITH
HUMAN RIGHTS STRATEGY REPORT NOW IN PREPARATION AND DUE
ON JUNE 3. VANCE

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